INITIATIVE PETITION

To the Honorable Gregory S. Bell, Lieutenant Governor:

We, the undersigned citizens and registered voters of the State of Utah, respectfully demand that the following law entitled "**SINGLE RATE INCOME TAX REPEAL AND GRADUATED TAX RATES REVISION**" be submitted to the legal voters of Utah for their approval or rejection at the regular general election to be held on November 2, 2010. Each signer says: "I have personally signed this petition; I am registered to vote in Utah or intend to become registered to vote in Utah before the certification of the petition names by the county clerk; and my residence and post office address are written correctly after my name."

SINGLE RATE INCOME TAX REPEAL AND GRADUATED TAX RATES REVISION

LONG TITLE

General Description:

This bill amends the individual income tax act by repealing the single rate individual income tax and establishing a graduated bracket system for individuals and trusts and estates.

Highlighted Provisions:

This bill:

- Repeals 2007 and 2008 income tax provisions that imposed a single rate individual income tax for individuals and trusts and estates, with these changes to be effective on or after January 1, 2010;
- Restores and revises traditional Utah tax rates and brackets, requiring brackets to be adjusted in accordance with the consumer price index, thereby correcting 35 years of bracket creep;
- Restores critical education funds lost due to tax cuts of 2007 and 2008;
- Establishes a unique income tax credit of $300 per married couple/head of household and $150 per single/married filing separately--by reducing the tax rates to 0 percent for married filers earning less than or equal to $10,000 taxable income or single filers earning less than or equal to $5,000 taxable income; and

Received

OCT 1 3 2009

Greg Bell
Lieutenant Governor

- Converts income tax credits established in omnibus H.B. 359 (2008) into traditional subtractions from federal taxable income to determine state taxable income, excluding the state subtraction for 50 percent of federal taxes paid.

Monies Appropriated in this Bill:

None

Other Special Clauses:

Intent Statement

Retrospective Operation

Severability Clause

Utah Code Sections Affected:

ENACTS:

59-10-102.5, Utah Code Annotated 1953

REPEALS AND REENACTS:

31A-32a-101, as last amended by Chapter 389, Laws of Utah 2008

31A-32a-105, as last amended by Chapter 389, Laws of Utah 2008

31A-32a-106, as last amended by Chapter 389, Laws of Utah 2008

31A-32a-107, as last amended by Chapter 389, Laws of Utah 2008

53B-8a-106, as last amended by Chapters 196 and 389, Laws of Utah 2008

59-10-103, as last amended by Chapters 382 and 389, Laws of Utah 2008

59-10-104, as last amended by Chapter 389, Laws of Utah 2008

59-10-114, as last amended by Chapters 382 and 389, Laws of Utah 2008

59-10-115, as last amended by Chapters 382 and 389, Laws of Utah 2008

59-10-119, as last amended by Chapter 389, Laws of Utah 2008

59-10-202, as last amended by Chapter 389, Laws of Utah 2008

59-10-1002.2, as last amended by Chapter 389, Laws of Utah 2008

59-10-1402, as last amended by Chapter 312, Laws of Utah 2009

REPEALS:

59-10-1017, as last amended by Chapter 389, Laws of Utah 2008

59-10-1018, as last amended by Chapter 389, Laws of Utah 2008

59-10-1019, as last amended by Chapter 389, Laws of Utah 2008

59-10-1020, as enacted by Chapter 389, Laws of Utah 2008

59-10-1021, as enacted by Chapter 389, Laws of Utah 2008

59-10-1022, as enacted by Chapter 389, Laws of Utah 2008

59-10-1023, as enacted by Chapter 389, Laws of Utah 2008

Be it enacted by the People of the State of Utah:

Intent Statement.

It is the intent of the People in enacting this initiative, Single Rate Income Tax Repeal and Graduated Tax Rates Revision, to repeal the legislative tax policy that created a single rate individual income tax: S.B. 4001 (2006 Fourth Special Session)(enacted a dual rate individual income tax system) and S.B. 223 (2007 General Session)(replaced the dual system with a single rate system). This initiative provides a graduated income tax bracket system based on federal taxable income for individuals that would eliminate the disproportionate tax burdens imposed on lower and middle income taxpayers and disproportionate tax benefits to higher income taxpayers with the attendant loss of revenue to public education. The taxation of trusts and estates uses the graduated income tax bracket system but is based on unadjusted income to incorporate the extensive legislative study undertaken in this area by the Tax Review Commission and incorporated into H.B. 359 (2008 General Session).

Any individual, trust or estate subject to taxation under Title 59, Chapter 10 shall be subject to the graduated tax brackets and rates provided in Section 59-10-104 of this initiative. With the exception of the subtraction for fifty percent of federal taxes paid, additions and subtractions from federal taxable income that were previously allowed under Section 59-10-114 of the Utah Code (repealed in omnibus H.B. 359S3, 2008 General Session) will be reinstated. Tax credits that were enacted in replacement of such deductions will no longer be allowed.

Section 1. Section **59-10-102.5** is enacted to read:

59-10-102.5 Declaration of Intent.

With the enactment of this initiative, Single Rate Income Tax Repeal and Graduated Tax Rates Revision, the People intend to accomplish the following objectives:

(1) repeal the single rate individual income tax for resident and nonresident individuals, trusts and estates;

(2) adopt an individual income tax system based on a graduated income tax bracket system that will be adjusted annually using the consumer price index;

(3) allow a taxpayer to adjust federal taxable income by using additions and subtractions previously allowed under 2007 law, excluding the subtraction for fifty percent of federal taxes paid, to determine state taxable income; and,

(4) enable the commission to make equitable adjustments to a taxpayer's income as necessary, in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act.

Section 2. Section **31A-32a-101** is repealed and reenacted to read:

31A-32a-101. Title and scope.

(1) This chapter is known as the "Medical Care Savings Account Act."

(2)(a) This chapter applies only to a medical care savings account established for the purpose of seeking a tax deduction under Section 59-10-114.

(b) This chapter does not apply to a medical care savings account with respect to which a tax deduction is not claimed under Section 59-10-114.

Section 3. Section **31A-32a-105** is repealed and reenacted to read:

31A-32a-105. Withdrawals -- Termination -- Transfers.

(1) Subject to Subsection (3), if the employee or account holder withdraws money for any purpose other than a medical expense at any time in which the balance in the account is below $4,000, all of the following apply:

(a) the amount of the withdrawal shall be added to federal taxable income in accordance with Section 59-10-114; and

(b) the administrator shall withhold from the amount of the withdrawal, and on behalf of the employee or account holder shall pay a penalty to the State Tax Commission equal to 10% of the amount of the withdrawal.

(2) If an employee or account holder withdraws money from the employee's or account holder's medical care savings account for any purpose other than a medical expense, but the withdrawal occurs when the balance in the medical care savings account is over $4,000, and the withdrawal will not result in the account balance dropping below $4,000, the amount of the withdrawal:

(a) is not subject to the penalties described in Subsection (1)(b); and

(b) shall be added to federal taxable income in accordance with Section 59-10-114.

(3) The amount of a disbursement of any assets of a medical care savings account pursuant to a filing for protection under 11 U.S.C. Sec. 101 to 1330, by an employee, account holder, or person for whose benefit the account was established:

(a) is not considered a withdrawal for purposes of this section; and

(b) shall be added to federal taxable income in accordance with Section 59-10-114.

(4)(a) Upon the death of the employee or account holder, the account administrator shall distribute the principal and accumulated interest of the medical care savings account to the estate of the employee or account holder.

(b) A distribution under this Subsection (4) is not subject to the penalties described in Subsection (1)(b).

(5)(a) If an employee is no longer employed by an employer that participates in a medical care savings account program, and if the employee's account is administered by the employer's account administrator, the money in the medical care savings account may be used for the benefit of the employee or the employee's dependents in accordance with this chapter and may not be added to federal taxable income under Section 59-10-114 if the employee, not more than 60 days after the employee's final day of employment:

(i) transfers the account to a new account administrator; or

(ii)(A) requests in writing to the former employer's account administrator that the account remain with that administrator; and

(B) the account administrator agrees to retain the account.

(b) Not more than 30 days after the expiration of the 60 days described in Subsection (5)(a), if an account administrator has not accepted the former employee's account, the employer shall mail a check to the former employee at the employee's last-known address equal to the amount in the account on that day.

(c) The amount mailed to the employee under Subsection (5)(b) shall be added to federal taxable income in accordance with Section 59-10-114, but is not subject to the penalties under Subsection (1)(b).

(d) If an employee becomes employed with a different employer that participates in a medical care savings account program, the employee may transfer the employee's medical care savings account to that new employer's account administrator.

(e) If an account holder becomes an employee of an employer that participates in a medical care savings account program, the account holder may transfer the account holder's account to the employer's account administrator.

Section 4. Section **31A-32a-106** is repealed and reenacted to read:

31A-32a-106. Regulation of account administrators -- Rulemaking authority.

(1) The department shall regulate account administrators and may adopt rules necessary to administer this chapter.

(2) The State Tax Commission may adopt rules necessary to monitor and implement the tax deductions established by this chapter and Section 59-10-114.

Section 5. Section **31A-32a-107** is repealed and reenacted to read:

31A-32a-107. Penalties for noncompliance with tax provisions.

An account administrator who fails to comply with the statutes and rules governing the tax deduction established by this chapter and Section 59-10-114 is subject to:

(1) the civil penalties provided in Section 59-1-401; and

(2) interest at the rate and in the manner provided in Section 59-1-402.

Section 6. Section **53B-8a-106** is repealed and reenacted to read:

53B-8a-106. Account agreements.

The Utah Educational Savings Plan Trust may enter into account agreements with account owners on behalf of beneficiaries under the following terms and agreements:

(1)(a) An account agreement may require an account owner to agree to invest a specific amount of money in the Utah Educational Savings Plan Trust for a specific period of time for the benefit of a specific beneficiary, not to exceed an amount determined by the program administrator.

(b) Account agreements may be amended to provide for adjusted levels of payments based upon changed circumstances or changes in educational plans.

(c) An account owner may make additional optional payments as long as the total payments for a specific beneficiary do not exceed the total estimated higher education costs as determined by the program administrator.

(d) Subject to Subsection (1)(f), the maximum amount of a qualified investment that a corporation that is an account owner may subtract from unadjusted income for a taxable year in accordance with Title 59, Chapter 7, Corporate Franchise and Income Taxes, is $1,650 for each individual beneficiary for the taxable year beginning on or after January 1, 2008.

(e) Subject to Subsection (1)(f), the maximum amount of a qualified investment that may be subtracted from federal taxable income of a resident or nonresident individual for a taxable year in accordance with Section 59-10-114 or a resident or nonresident individual estate or trust for a taxable year in accordance with Section 59-10-202 is:

(i) for a resident or nonresident estate or trust that is an account owner, $1,650 for each individual beneficiary for the taxable year beginning on or after January 1, 2008;

(ii) for a resident or nonresident individual that is an account owner, other than a husband and wife who are account owners and file a single return jointly under Title 59, Chapter 10, Individual Income Tax Act, $1,650 for each individual beneficiary for the taxable year beginning on or after January 1, 2008; or

(iii) for a husband and wife who are account owners and file a single return jointly under Title 59, Chapter 10, Individual Income Tax Act, $3,300 for each individual beneficiary:

(A) for the taxable year beginning on or after January 1, 2008; and

(B) regardless of whether the Utah Educational Savings Plan Trust has entered into:

(I) a separate account agreement with each spouse; or

(II) a single account agreement with both spouses jointly.

(f)(i) For taxable years beginning on or after January 1, 2009, the program administrator shall increase or decrease the maximum amount of a qualified investment described in Subsections (1)(d) and (1)(e)(i) and (ii), by a percentage equal to the percentage difference between the consumer price index for the preceding calendar year and the consumer price index for the calendar year 2007.

(ii) After making an increase or decrease required by Subsection (1)(f)(i), the program administrator shall:

(A) round the maximum amount of the qualified investments described in Subsections (1)(d) and (1)(e)(i) and (ii) increased or decreased under Subsection (1)(f)(i) to the nearest ten dollar increment; and

(B) increase or decrease the maximum amount of the qualified investment described in Subsection (1)(e)(iii) so that the maximum amount of the qualified investment described in Subsection (1)(e)(iii) is equal to the product of:

(I) the maximum amount of the qualified investment described in Subsection (1)(e)(ii) as rounded under Subsection (1)(f)(ii)(A); and

(II) two.

(iii) For purposes of Subsections (1)(f)(i) and (ii), the program administrator shall calculate the consumer price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

(2)(a)(i) Beneficiaries designated in account agreements must be designated after birth and before age 19 for an account owner to subtract a qualified investment from income under:

(A) Title 59, Chapter 7, Corporate Franchise and Income Taxes;

(B) Section 59-10-114 for individuals; or

(C) Section 59-10-202 for trusts and estates.

(ii) If the beneficiary is designated after birth and before age 19, the payment of benefits provided under the account agreement must begin no later than the beneficiary's 27th birthday.

(b)(i) Account owners may designate a beneficiary age 19 or older, but investments for that beneficiary are not eligible to be subtracted from income under:

(A) Title 59, Chapter 7, Corporate Franchise and Income Taxes; or

(B) Section 59-10-114 for individuals.

(ii) If a beneficiary age 19 or older is designated, the payment of benefits provided under the account agreement must begin not later than ten years from the account agreement date.

(3) Each account agreement shall state clearly that there are no guarantees regarding moneys in the Utah Educational Savings Plan Trust as to the return of principal and that losses could occur.

(4) Each account agreement shall provide that:

(a) a contributor to, or designated beneficiary under, an account agreement may not direct the investment of any contributions or earnings on contributions;

(b) any part of the money in any account may not be used as security for a loan; and

(c) an account owner may not borrow from the Utah Educational Savings Plan Trust.

(5) The execution of an account agreement by the trust may not guarantee in any way that higher education costs will be equal to projections and estimates provided by the Utah Educational Savings Plan Trust or that the beneficiary named in any account agreement will:

(a) be admitted to an institution of higher education;

(b) if admitted, be determined a resident for tuition purposes by the institution of higher education;

(c) be allowed to continue attendance at the institution of higher education following admission; or

(d) graduate from the institution of higher education.

(6) A beneficiary may be changed as permitted by the rules and regulations of the board upon written request of the account owner prior to the date of admission of any beneficiary under an account agreement by an institution of higher education so long as the substitute beneficiary is eligible for participation.

(7) An account agreement may be freely amended throughout the term of the account agreement in order to enable an account owner to increase or decrease the level of participation, change the designation of beneficiaries, and carry out similar matters as authorized by rule.

(8) Each account agreement shall provide that:

(a) the account agreement may be canceled upon the terms and conditions, and upon payment of the fees and costs set forth and contained in the board's rules and regulations; and

(b) the program administrator may amend the agreement unilaterally and retroactively, if necessary, to maintain the Utah Educational Savings Plan Trust as a qualified tuition program under Section 529, Internal Revenue Code.

Section 7. Section **59-10-103** is repealed and reenacted to read:

59-10-103. Definitions.

(1) As used in this chapter:

(a) "Adjusted gross income":

(i) for a resident or nonresident individual, is as defined in Section 62, Internal Revenue Code; or

(ii) for a resident or nonresident estate or trust, is as calculated in Section 67(e), Internal Revenue Code.

(b) "Adoption expenses" means:

(i) any actual medical and hospital expenses of the mother of the adopted child which are incident to the child's birth;

(ii) any welfare agency fees or costs;

(iii) any child placement service fees or costs;

(iv) any legal fees or costs: or

(v) any other fees or costs relating to an adoption.

(c) "Adult with a disability" means an individual who:

(i) is 18 years of age or older;

(ii) is eligible for services under Title 62A, Chapter 5, Services for People with Disabilities; and

(iii) is not enrolled in:

(A) an education program for students with disabilities that is authorized under Section 53A-15-301; or

(B) a school established under Title 53A, Chapter 25, Schools for the Deaf and Blind.

(d)(i) "Capital gain transaction" means a transaction that results in a:

(A) short-term capital gain; or

(B) long-term capital gain.

(ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may by rule define the term "transaction."

(e) "Commercial domicile" means the principal place from which the trade or business of a Utah small business corporation is directed or managed.

(f) "Corporation" includes:

(i) an association;

(ii) a joint stock company; and

(iii) an insurance company.

(g) "Dependent child with a disability" means an individual 21 years of age or younger who:

(i)(A) is diagnosed by a school district representative under rules adopted by the State Board of Education as having a disability classified as:

(I) autism;

(II) deafness;

(III) preschool developmental delay;

(IV) dual sensory impairment;

(V) hearing impairment;

(VI) intellectual disability;

(VII) multidisability;

(VIII) orthopedic impairment;

(IX) other health impairment;

(X) traumatic brain injury; or

(XI) visual impairment;

(B) is not receiving residential services from:

(I) the Division of Services for People with Disabilities created under Section 62A-5- 102; or

(II) a school established under Title 53A, Chapter 25, Schools for the Deaf and Blind; and

(C) is enrolled in:

(I) an education program for students with disabilities that is authorized under Section 53A-15-301; or

(II) a school established under Title 53A, Chapter 25, Schools for the Deaf and Blind; or

(ii) is identified under guidelines of the Department of Health as qualified for:

(A) Early Intervention; or

(B) Infant Development Services.

(h) "Distributable net income" is as defined in Section 643, Internal Revenue Code.

(i) "Employee" is as defined in Section 59-10-401.

(j) "Employer" is as defined in Section 59-10-401.

(k) "Federal taxable income":

(i) for a resident or nonresident individual, means taxable income as defined by Section 63, Internal Revenue Code; or

(ii) for a resident or nonresident estate or trust, is as calculated in Section 641(a) and (b), Internal Revenue Code.

(l) "Fiduciary" means:

(i) a guardian;

(ii) a trustee;

(iii) an executor;

(iv) an administrator;

(v) a receiver;

(vi) a conservator; or

(vii) any person acting in any fiduciary capacity for any individual.

(m) "Guaranteed annuity interest" is as defined in 26 C.F.R. Sec. 1.170A-6(c)(2).

(n) "Homesteaded land diminished from the Uintah and Ouray Reservation" means the homesteaded land that was held to have been diminished from the Uintah and Ouray Reservation in *Hagen v. Utah*, 510 U.S. 399 (1994).

(o) "Individual" means a natural person and includes aliens and minors.

(p) "Irrevocable trust" means a trust in which the settlor may not revoke or terminate all or part of the trust without the consent of a person who has a substantial beneficial interest in the trust and the interest would be adversely affected by the exercise of the settlor's power to revoke or terminate all or part of the trust.

(q) "Long- term capital gain" is as defined in Section 1222, Internal Revenue Code.

(r) "Military service" is as defined in Pub. L. No. 108-189, Sec. 101.

(s) "Nonresident individual" means an individual who is not a resident of this state.

(t) "Nonresident trust" or "nonresident estate" means a trust or estate which is not a resident estate or trust.

(u)(i) "Partnership" includes a syndicate, group, pool, joint venture, or other unincorporated organization:

(A) through or by means of which any business, financial operation, or venture is carried on; and

(B) which is not, within the meaning of this chapter:

(I) a trust;

(II) an estate; or

(III) a corporation.

(ii) "Partnership" does not include any organization not included under the definition of "partnership" in Section 761, Internal Revenue Code that

(iii) "Partner" includes a member in a syndicate, group, pool, joint venture, or organization described in Subsection (l)(u)(i).

(v) "Qualified nongrantor charitable lead trust" means a trust:

(i) that is irrevocable;

(ii) that has a trust term measure by:

(A) a fixed term of years, or

(B) the life of a person living on the day on which the trust is created;

(iii) under which:

(A) a portion of the value of the trust assets is distributed during the trust term:

(I) to an organization described in Section 170(c), Internal Revenue Code; and

(II) as a:

(Aa) guaranteed annuity interest; or

(Bb) unitrust interest; and

(B) assets remaining in the trust at the termination of the trust term are distributed to a beneficiary:

(I) designated in the trust; and

(II) that is not an organization described in Section 170(c), Internal Revenue Code;

(iv) for which the trust is allowed a deduction under Section 642(c), Internal Revenue Code; and

(v) under which the grantor of the trust is not treated as the owner of any portion of the trust for federal income tax purposes.

(w) "Qualifying stock" means stock that is:

(i)(A) common; or

(B) preferred;

(ii) as defined by the commission by rule, originally issued to:

(A) a resident or nonresident individual; or

(B) a partnership if the resident or nonresident individual making a subtraction from federal taxable income in accordance with Subsection 59-10-114(2)(k):

(I) was a partner when the stock was issued; and

(II) remains a partner until the last day of the taxable year for which the resident or nonresident individual makes the subtraction from federal taxable income in accordance with Subsection 59-10-114(2)(k); and

(iii) issued:

(A) by a Utah small business corporation;

(B) on or after January 1,2003; and

(C) for:

(I) money; or

(II) other property, except for stock or securities.

(x)(i) "Resident individual" means:

(A) an individual who is domiciled in this state for any period of time during the taxable year, but only for the duration of the period during which the individual is domiciled in this state; or

(B) an individual who is not domiciled in this state but:

(I) maintains a permanent place of abode in this state; and

(II) spends in the aggregate 183 or more days of the taxable year in this state.

(ii) For purposes of Subsection (1)(x)(i)(B), a fraction of a calendar day shall be counted as a whole day.

(y) "Resident estate" or "resident trust" is as defined in Section 75-7-103.

(z) "Servicemember" is as defined in Pub. L. No. 108-189, Sec. 101.

(aa) "Short- term capital gain" is as defined in Section 1222, Internal Revenue Code.

(bb) "State income tax percentage for a nonresident estate or trust" means a percentage equal to a nonresident estate's or trust's state taxable income for the taxable year divided by the nonresident estate's or trust's total adjusted gross income for that taxable year after making the adjustments required by:

(i) Section 59-10-202;

(ii) Section 59-10-207;

(iii) Section 59-10-209.1; or

(iv) Section 59-10-210.

(cc) "State income tax percentage for a nonresident individual" means a percentage equal to a nonresident individual's state taxable income for the taxable year divided by the difference between:

(i) subject to Section 59-10-1405, the nonresident individual's total adjusted gross income for that taxable year, after making the:

(A) additions and subtractions required by Section 59-10-114; and

(B) adjustments required by Section 59-10-115; and

(ii) if the nonresident individual described in Subsection (1)(cc)(i) is a service member, the compensation the service member receives for military service if the servicemember is serving in compliance with military orders.

(dd) "State income tax percentage for a part-year resident individual" means, for a taxable year, a fraction:

(i) the numerator of which is the sum of:

(A) subject to Section 59-10-1404.5, for the time period during the taxable year that the part-year resident individual is a resident, the part-year resident individual's total adjusted gross income for that time period, after making the:

(I) additions and subtractions required by Section 59-10-114; and

(II) adjustments required by Section 59-10-115; and

(B) for the time period during the taxable year that the part-year resident individual is a nonresident, an amount calculated by:

(I) determining the part-year resident individual's adjusted gross income for that time period, after making the:

(Aa) additions and subtractions required by Section 59-10-114; and

(Bb) adjustments required by Section 59-10-115; and

(II) calculating the portion of the amount determined under Subsection (1)(dd)(i)(B)(I) that is derived from Utah sources in accordance with Section 59-10-117; and

(ii) the denominator of which is the difference between:

(A) the part-year resident individual's total adjusted gross income for that taxable year, after making the:

(I) additions and subtractions required by Section 59-10-114; and

(II) adjustments required by Section 59-10-115; and

(B) if the part-year resident individual is a servicemember, any compensation the servicemember receives for military service during the portion of the taxable year that the servicemember is a nonresident if the service member is serving in compliance with military orders.

(ee) "Taxable income" or "state taxable income":

(i) subject to Section 59-10-1404.5, for a resident individual, means the resident individual's federal taxable income after making the:

(A) additions and subtractions required by Section 59-10-114; and

(B) adjustments required by Section 59-10-115;

(ii) for a nonresident individual, is an amount calculated by:

(A) determining the nonresident individual's federal taxable income for the taxable year, after making the:

(I) additions and subtractions required by Section 59-10-114; and

(II) adjustments required by Section 59-10-115; and

(B) calculating the portion of the amount determined under Subsection (1)(ee)(ii)(A) that is derived from Utah sources in accordance with Section 59-10-117;

(iii) for a resident estate or trust, is as calculated under Section 59-10-201.1; and

(iv) for a nonresident estate or trust, is as calculated under Section 59-10-204.

(ff) "Taxpayer" means any individual, estate, trust, or beneficiary of an estate or trust, that has income subject in whole or part to the tax imposed by this chapter.

(gg) "Trust term" means a time period:

(i) beginning on the day on which a qualified nongrantor charitable lead trust is created; and

(ii) ending on the day on which the qualified nongrantor charitable lead trust described in Subsection (1)(gg)(i) terminates.

(hh) "Uintah and Ouray Reservation" means the lands recognized as being included within the Uintah and Ouray Reservation in:

(i) Hagen v. Utah, 510 U.S. 399 (1994); and

(ii) Ute Indian Tribe v. Utah, 114 F.3d 1513 (10th Cir. 1997).

(ii) "Unadjusted income" means an amount equal to the difference between:

(i) the total income required to be reported by a resident or nonresident estate or trust on the resident or nonresident estate's or trust's federal income tax return for estates and trusts for the taxable year; and

(ii) the sum of the following:

(A) fees paid or incurred to the fiduciary of a resident or nonresident estate or trust:

(I) for administering the resident or nonresident estate or trust; and

(II) that the resident or nonresident estate or trust deducts as allowed on the resident or nonresident estate's or trust's federal income tax return for estates and trusts for the taxable year;

(B) the income distribution deduction that a resident or nonresident estate or trust deducts under Section 651 or 661, Internal Revenue Code, as allowed on the resident or nonresident estate's or trust's federal income tax return for estates and trusts for the taxable year;

(C) the amount that a resident or nonresident estate or trust deducts as a deduction for estate tax or generation skipping transfer tax under Section 691(c), Internal Revenue Code, as allowed on the resident or nonresident estate's or trust's federal income tax return for estates and trusts for the taxable year; and

(D) the amount that a resident or nonresident estate or trust deducts as a personal exemption under Section 642(b), Internal Revenue Code, as allowed on the resident or nonresident estate's or trust's federal income tax return for estates and trusts for the taxable year.

(jj) "Unitrust interest" is as defined in 26 C.F.R. Sec. 1.170A-6(c)(2).

(kk)(i) "Utah small business corporation" means a corporation that:

(A) is a small business corporation as defined in Section 1244(c)(3), Internal Revenue Code;

(B) except as provided in Subsection (1)(kk)(ii), meets the requirements of Section 1244(c)(1)(C), Internal Revenue Code; and

(C) has its commercial domicile in this state.

(ii) Notwithstanding Subsection (1)(kk)(i)(B), the time period described in Section 1244(c)(1)(C) and section 1244(c)(2), Internal Revenue Code, for determining the source of a corporation's aggregate gross receipts shall end on the last day of the taxable year for which the resident or nonresident individual makes a subtraction from federal taxable income in accordance with Subsection 59-10-114(2)(k).

(ll) "Ute tribal member" means a person who is enrolled as a member of the Ute Indian Tribe of the Uintah and Ouray Reservation.

(mm) "Ute tribe" means the Ute Indian Tribe of the Uintah and Ouray Reservation.

(nn) "Wages" is as defined in Section 59-10-401.

(2)(a) Any term used in this chapter has the same meaning as when used in comparable context in the laws of the United States relating to federal income taxes unless a different meaning is clearly required.

(b) Any reference to the Internal Revenue Code or to the laws of the United States shall mean the Internal Revenue Code or other provisions of the laws of the United States relating to federal income taxes that are in effect for the taxable year.

(c) Any reference to a specific section of the Internal Revenue Code or other provision of the laws of the United States relating to federal income taxes shall include any corresponding or comparable provisions of the Internal Revenue Code as amended, redesignated, or reenacted.

Section 8. Section **59-10-104** is repealed and reenacted to read:

(1) Except as provided in Subsection (5), for taxable years beginning on or after January 1, 2010, a tax is imposed on the state taxable income of a resident individual as provided in this section.

(2) For an individual, other than a husband and wife or head of household required to use the tax table under Subsection (3), the tax under this section is imposed in accordance with the following income brackets:

If the state taxable income is:	**The tax is:**
Less than or equal to $5,000	0.0 % of the state taxable income
Greater than $5,000 but less than or equal to $10,000	$150, plus 4% of state taxable income greater than $5,000
Greater than $10,000 but less than or equal to $15,000	$350, plus 5% of state taxable income greater than $10,000
Greater than $15,000 but less than or equal to $20,000	$600, plus 6% of state taxable income greater than $15,000
Greater than $20,000 but less than or equal $25,000	$900, plus 7% of state taxable income greater than $20,000
Greater than $25,000 but less than or equal $137,500	$1,250, plus 8% of state taxable income greater than $25,000
Greater than $137,500	$10,250, plus 8.25% of state taxable income greater than $137,500

(3) For a husband and wife filing a single return jointly, or a head of household as defined in Section 2(b), Internal Revenue Code, filing a single return, the tax under this section is imposed in accordance with the following table:

If the state taxable income is:	**The tax is:**
Less than or equal to $10,000	0.0 % of the state taxable income
Greater than $10,000 but less than or equal to $20,000	$300, plus 4% of state taxable income greater than $10,000
Greater than $20,000 but less than or equal to $30,000	$700, plus 5% of state taxable income greater than $20,000
Greater than $30,000 but less than or equal to $40,000	$1,200, plus 6% of state taxable income greater than $30,000
Greater than $40,000 but less than or equal to $50,000	$1,800, plus 7% of state taxable income greater than $40,000
Greater than $50,000 but less than or equal to $275,000	$2,500, plus 8% of state taxable income greater than $50,000
Greater than $275,000	$20,500, plus 8.25% of state taxable income greater than $275,000

(4)(a) For taxable years beginning on or after January 1, 2011, the commission shall:

(i) make the following adjustments to the income brackets under Subsection (2):

(A) increase or decrease the income brackets under Subsection (2) by a percentage equal to the percentage difference between the consumer price index for the preceding calendar year and the consumer price index for the calendar year 2009; and

(B) after making an increase or decrease under Subsection (4)(a)(i)(A), round the income brackets under Subsection (2) to the nearest whole dollar;

(ii) after making the adjustments described in Subsection (4)(a)(i) to the income brackets under Subsection (2), adjust the income brackets under Subsection (3) so that for each income bracket under Subsection (2) there is a corresponding income bracket under Subsection (3) that is equal to the product of:

(A) each income bracket under Subsection (2); and

(B) two; and

(iii) to the extent necessary to reflect an adjustment under Subsection (4)(a)(i) or (ii):

(A) increase or decrease the amount of tax under Subsection (2) or (3) prior to adding in the portion of the tax calculated as a percentage of state taxable income; and

(B) after making an increase or decrease under Subsection (4)(a)(iii)(A), round the amount of tax under Subsection (2) or (3) to the nearest whole dollar.

(b) The commission may not increase or decrease the tax rate percentages or the ratios between the income brackets provided in Subsection (2) or (3).

(c) For purposes of Subsection (4)(a)(i), the commission shall calculate the consumer price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

(5) This section does not apply to a resident individual exempt from taxation under Section 59-10-104.1.

(6) Tax shall be calculated pursuant to the applicable percentages in Subsection 59-10-104(2) for a:

(a) nonresident individual under Section 59-10-116;

(b) resident trust or estate under Section 59-10-201; and

(c) nonresident trust or estate under Section 59-10-205.

Section 9. Section **59-10-114** is repealed and reenacted to read:

59-10-114. Additions to and subtractions from federal taxable income of an individual.

(1) There shall be added to federal taxable income of a resident or nonresident individual:

(a) the amount of any income tax imposed by this or any predecessor Utah individual income tax law and the amount of any income tax imposed by the laws of another state, the District of Columbia, or a possession of the United States, to the extent deducted from adjusted gross income in determining federal taxable income;

(b) a lump sum distribution that the taxpayer does not include in adjusted gross income on the taxpayer's federal individual income tax return for the taxable year;

(c) for taxable years beginning on or after January 1, 2002, the amount of a child's income calculated under Subsection (5) that:

(i) a parent elects to report on the parent's federal individual income tax return for the taxable year; and

(ii) the parent does not include in adjusted gross income on the parent's federal individual income tax return for the taxable year;

(d) 25% of the personal exemptions, as defined and calculated in the Internal Revenue Code;

(e) a withdrawal from a medical care savings account and any penalty imposed in the taxable year if:

(i) the resident or nonresident individual does not deduct or include the amounts on the resident or nonresident individual's federal individual income tax return under Section 220, Internal Revenue Code;

(ii) the withdrawals or disbursements are subject to Section 31A- 32a-105; and

(iii) the withdrawal is deducted by the resident or nonresident individual under Subsection (2)(g);

(f) the amount withdrawn under Title 53B, Chapter 8a, Higher Education Savings Incentive Program, from the account of a resident or nonresident individual who is an account owner as defined in Section 53B-8a-102, for the taxable year for which the amount is withdrawn, if that amount withdrawn from the account of the resident or nonresident individual who is the account owner:

(i) is not expended for higher education costs as defined in Section 53B-8a-102; and

(ii) is subtracted by the resident or nonresident individual:

(A) who is the account owner; and

(B) in accordance with Subsection (2)(h);

(g) except as provided in Subsection (6), for bonds, notes, and other evidences of indebtedness acquired on or after January 1, 2003, the interest from bonds, notes, and other evidences of indebtedness issued by one or more of the following entities:

(i) a state other than this state;

(ii) the District of Columbia;

(iii) a political subdivision of a state other than this state; or

(iv) an agency or instrumentality of an entity described in Subsections (1)(g)(i) through (iii);

(h) subject to Subsection (2)(l), any distribution received by a resident beneficiary of a resident trust of income that was taxed at the trust level for federal tax purposes, but was subtracted from state taxable income of the trust pursuant to Subsection 59-10-202(2)(b);

(i) any distribution received by a resident beneficiary of a nonresident trust of undistributed distributable net income realized by the trust on or after January 1, 2004, if that undistributed distributable net income was taxed at the trust level for federal tax purposes, but was not taxed at the trust level by any state, with undistributed distributable net income considered to be distributed from the most recently accumulated undistributed distributable net income; and

(j) any adoption expense:

(i) for which a resident or nonresident individual receives reimbursement from another person; and

(ii) to the extent to which the resident or nonresident individual deducts that adoption expense:

(A) under Subsection (2)(b); or

(B) from federal taxable income on a federal individual income tax return.

(2) There shall be subtracted from federal taxable income of a resident or nonresident individual:

(a) the interest or a dividend on an obligation or security of the United States and its possessions or of an authority, commission, or instrumentality of the United States, to the extent that interest or dividend is included in gross income for federal income tax purposes for the taxable year but exempt from state income taxes under the laws of the United States, but the amount subtracted under this Subsection (2)(a) shall be reduced by any interest on indebtedness incurred or continued to purchase or carry the obligations or securities described in this Subsection (2)(a), and by any expenses incurred in the production of interest or dividend income described in this Subsection (2)(a) to the extent that such expenses, including amortizable bond premiums, are deductible in determining federal taxable income;

(b) the amount of adoption expenses for one of the following taxable years as elected by the resident or nonresident individual:

(i) regardless of whether a court issues an order granting the adoption, the taxable year in which the adoption expenses are:

(A) paid; or

(B) incurred;

(ii) the taxable year in which a court issues an order granting the adoption; or

(iii) any year in which the resident or nonresident individual may claim the federal adoption expenses credit under Section 23, Internal Revenue Code;

(c) amounts received by taxpayers under age 65 as retirement income which, for purposes of this section, means pensions and annuities, paid from an annuity contract purchased by an employer under a plan which meets the requirements of Section 404(a)(2), Internal Revenue Code, or purchased by an employee under a plan which meets the requirements of Section 408, Internal Revenue Code, or paid by the United States, a state, or political subdivision thereof, or the District of Columbia, to the employee involved or the surviving spouse;

(d) for each taxpayer age 65 or over before the close of the taxable year, a $7,500 personal retirement exemption;

(e) 75% of the amount of the personal exemption, as defined and calculated in the Internal Revenue Code, for each dependent child with a disability and adult with a disability who is claimed as a dependent on a taxpayer's return;

(f) subject to the limitations of Subsection (3)(e), amounts a taxpayer pays during the taxable year for health care insurance, as defined in Title 31A, Chapter 1, General Provisions:

(i) for:

(A) the taxpayer;

(B) the taxpayer's spouse; and

(C) the taxpayer's dependents; and

(ii) to the extent the taxpayer does not deduct the amounts under Section 125, 162, or 213, Internal Revenue Code, in determining federal taxable income for the taxable year;

(g)(i) except as provided in this Subsection (2)(g), the amount of a contribution made during the taxable year on behalf of the taxpayer to a medical care savings account and interest earned on a contribution to a medical care savings account established pursuant to Title 31A, Chapter 32a, Medical Care Savings Account Act, to the extent the contribution is accepted by the account administrator as provided in the Medical Care Savings Account Act, and if the taxpayer did not deduct or include amounts on the taxpayer's federal individual income tax return pursuant to Section 220, Internal Revenue Code; and

(ii) a contribution deductible under this Subsection (2)(g) may not exceed either of the following:

(A) the maximum contribution allowed under the Medical Care Savings Account Act for the tax year multiplied by two for taxpayers who file a joint return, if neither spouse is covered by health care insurance as defined in Section 31A- 1-301 or self-funded plan that covers the other spouse, and each spouse has a medical care savings account; or

(B) the maximum contribution allowed under the Medical Care Savings Account Act for the tax year for taxpayers:

(I) who do not file a joint return; or

(II) who file a joint return, but do not qualify under Subsection (2)(g)(ii)(A);

(h) subject to Subsection (l)(f), the amount of a qualified investment as defined in Section 53B-8a-102 that:

(i) a resident or nonresident individual who is an account owner as defined in Section 53B-8a-102 makes during the taxable year;

(ii) the resident or nonresident individual described in Subsection (2)(h)(i) does not deduct on a federal individual income tax return; and

(iii) does not exceed the maximum amount of the qualified investment that may be subtracted from federal taxable income for a taxable year in accordance with Subsections 53B-8a-l06(1)(e) and (f);

(i) for taxable years beginning on or after January 1, 2000, any amounts paid for premiums for long-term care insurance as defined in Section 3lA-1-301 to the extent the amounts paid for long-term care insurance were not deducted under Section 213, Internal Revenue Code, in determining federal taxable income;

(j) for taxable years beginning on or after January 1, 2000, if the conditions of Subsection (4)(a) are met, the amount of income derived by a Ute tribal member:

(i) during a time period that the Ute tribal member resides on homesteaded land diminished from the Uintah and Ouray Reservation; and

(ii) from a source within the Uintah and Ouray Reservation;

(k)(i) for taxable years beginning on or after January 1, 2003, the total amount of a resident or nonresident individual's short-term capital gain or long-term capital gain on a capital gain transaction:

(A) that occurs on or after January 1, 2003;

(B) if 70% or more of the gross proceeds of the capital gain transaction are expended:

(I) to purchase qualifying stock in a Utah small business corporation; and

(II) within a 12-month period after the day on which the capital gain transaction occurs; and

(C) if, prior to the purchase of the qualifying stock described in Subsection (2)(k)(i)(B)(I), the resident or nonresident individual did not have an ownership interest in the Utah small business corporation that issued the qualifying stock; and

(ii) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may make rules:

(A) defining the term "gross proceeds"; and

(B) for purposes of Subsection (2)(k)(i)(C), prescribing the circumstances under which a resident or nonresident individual has an ownership interest in a Utah small business corporation;

(l) an amount received by a resident or nonresident individual or distribution received by a resident or nonresident beneficiary of a resident trust:

(i) if that amount or distribution constitutes a refund of taxes imposed by:

(A) a state; or

(B) the District of Columbia; and

(ii) to the extent that amount or distribution is included in adjusted gross income for that taxable year on the federal individual income tax return of the resident or nonresident individual or resident or nonresident beneficiary of a resident trust;

(m) the amount of a railroad retirement benefit:

(i) paid:

(A) in accordance with The Railroad Retirement Act of 1974, 45 U.S.C. Sec. 231 et seq.;

(B) to a resident or nonresident individual; and

(C) for the taxable year; and

(ii) to the extent that railroad retirement benefit is included in adjusted gross income on that resident or nonresident individual's federal individual income tax return for that taxable year; and

(n) an amount:

(i) received by an enrolled member of an American Indian tribe; and

(ii) to the extent that the state is not authorized or permitted to impose a tax under this part on that amount in accordance with:

(A) federal law;

(B) a treaty; or

(C) a final decision issued by a court of competent jurisdiction.

(3)(a) For purposes of Subsection (2)(c), the amount of retirement income subtracted for taxpayers under 65 shall be the lesser of the amount included in federal taxable income, or $4,800, except that:

(i) for married taxpayers filing joint returns, for each $1 of adjusted gross income earned over $32,000, the amount of the retirement income exemption that may be subtracted shall be reduced by 50 cents;

(ii) for married taxpayers filing separate returns, for each $1 of adjusted gross income earned over $16,000, the amount of the retirement income exemption that may be subtracted shall be reduced by 50 cents; and

(iii) for individual taxpayers, for each $1 of adjusted gross income earned over $25,000, the amount of the retirement income exemption that may be subtracted shall be reduced by 50 cents.

(b) For purposes of Subsection (2)(d), the amount of the personal retirement exemption shall be further reduced according to the following schedule:

(i) for married taxpayers filing joint returns, for each $1 of adjusted gross income earned over $32,000, the amount of the personal retirement exemption shall be reduced by 50 cents;

(ii) for married taxpayers filing separate returns, for each $1 of adjusted gross income earned over $16,000, the amount of the personal retirement exemption shall be reduced by 50 cents; and

(iii) for individual taxpayers, for each $1 of adjusted gross income earned over $25,000, the amount of the personal retirement exemption shall be reduced by 50 cents.

(c) For purposes of Subsections (3)(a) and (b), adjusted gross income shall be calculated by adding to adjusted gross income any interest income not otherwise included in adjusted gross income.

(d) For purposes of determining ownership of items of retirement income common law doctrine will be applied in all cases even though some items may have originated from service or investments in a community property state. Amounts received by the spouse of a living retiree because of the retiree's having been employed in a community property state are not deductible as retirement income of such spouse.

(e) For purposes of Subsection (2)(f), a subtraction for an amount paid for health care insurance as defined in Title 31A, Chapter 1,General Provisions, is not allowed:

(i) for an amount that is reimbursed or funded in whole or in part by the federal government, the state, or an agency or instrumentality of the federal government or the state; and

(ii) for a taxpayer who is eligible to participate in a health plan maintained and funded in whole or in part by the taxpayer's employer or the taxpayer's spouse's employer.

(4)(a) A subtraction for an amount described in Subsection (2)(j) is allowed only if:

(i) the taxpayer is a Ute tribal member; and

(ii) the governor and the Ute tribe execute and maintain an agreement meeting the requirements of this Subsection (4).

(b) The agreement described in Subsection (4)(a):

(i) may not:

(A) authorize the state to impose a tax in addition to a tax imposed under this chapter;

(B) provide a subtraction under this section greater than or different from the subtraction described in Subsection (2)(j); or

(C) affect the power of the state to establish rates of taxation; and

(ii) shall:

(A) provide for the implementation of the subtraction described in Subsection (2)(j);

(B) be in writing;

(C) be signed by:

(I) the governor; and

(II) the chair of the Business Committee of the Ute tribe;

(D) be conditioned on obtaining any approval required by federal law; and

(E) state the effective date of the agreement.

(c)(i) The governor shall report to the commission by no later than February 1 of each year regarding whether or not an agreement meeting the requirements of this Subsection (4) is in effect.

(ii) If an agreement meeting the requirements of this Subsection (4) is terminated, the subtraction permitted under Subsection (2)(j) is not allowed for taxable years beginning on or after the January 1 following the termination of the agreement.

(d) For purposes of Subsection (2)(j) and in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may make rules:

(i) for determining whether income is derived from a source within the Uintah and Ouray Reservation; and

(ii) that are substantially similar to how adjusted gross income derived from Utah sources is determined under Section 59-10-117.

(5)(a) For purposes of this Subsection (5), "Form 8814" means:

(i) the federal individual income tax Form 8814, Parents' Election To Report Child's Interest and Dividends; or

(ii)(A) a form designated by the commission in accordance with Subsection (5)(a)(ii)(B) as being substantially similar to 2000 Form 8814 if for purposes of federal individual income taxes the information contained on 2000 Form 8814 is reported on a form other than Form 8814: and

(B) for purposes of Subsection (5)(a)(ii)(A) and in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may make rules designating a form as being substantially similar to 2000 Form 8814 if for purposes of federal individual income taxes the information contained on 2000 Form 8814 is reported on a form other than Form 8814.

(b) The amount of a child's income added to adjusted gross income under Subsection (l)(c) is equal to the difference between:

(i) the lesser of:

(A) the base amount specified on Form 8814; and

(B) the sum of the following reported on Form 8814:

(I) the child's taxable interest;

(II) the child's ordinary dividends; and

(III) the child's capital gain distributions; and

(ii) the amount not taxed that is specified on Form 8814.

(6) Notwithstanding Subsection (l)(g), interest from bonds, notes, and other evidences of indebtedness issued by an entity described in Subsections (l)(g)(i) through (iv) may not be added

to federal taxable income of a resident or nonresident individual if, as annually determined by the commission:

(a) for an entity described in Subsection (1)(g)(i) or (ii), the entity and all of the political subdivisions, agencies, or instrumentalities of the entity do not impose a tax based on income on any part of the bonds, notes, and other evidences of indebtedness of this state; or

(b) for an entity described in Subsection (1)(g)(iii) or (iv), the following do not impose a tax based on income on any part of the bonds, notes, and other evidences of indebtedness of this state:

(i) the entity; or

(ii)(A) the state in which the entity is located; or

(B) the District of Columbia, if the entity is located within the District of Columbia.

Section 10. Section **59-10-115** is repealed and reenacted to read:

59-10-115. Adjustments to federal taxable income.

(1) The commission shall allow an adjustment to federal taxable income of a resident or nonresident individual if the resident or nonresident individual would otherwise:

(a) receive a double tax benefit under this chapter, or

(b) suffer a double tax detriment under this chapter.

(2) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may make rules to allow for the adjustment to federal taxable income required by Subsection (1).

Section 11. Section **59-10-119** is repealed and reenacted to read:

59-10-119. Returns by husband and wife if husband or wife is a nonresident.

(1) If the federal taxable income of a husband and wife who are both nonresidents of this state is reported or determined on separate federal individual income tax returns, the husband's and wife's state taxable incomes in this state shall be separately determined.

(2) If the federal taxable income of a husband and wife who are both nonresidents of this state is reported or determined on a joint federal individual income tax return, the husband's and wife's tax shall be reported or determined in this state on a joint return.

(3)(a) If one spouse is a nonresident of this state and the other spouse is a resident of this state, separate taxes shall be determined on each spouse's separate state taxable incomes on forms prescribed by the commission.

(b) Notwithstanding Subsection (3)(a), a husband and wife may elect to be considered to be residents of this state for purposes of determining state taxable income for a taxable year.

(c) If one spouse who is a nonresident of this state and the other spouse who is a resident of this state file a joint federal income tax return, but determine state taxable income separately, the spouses shall compute their taxable incomes in this state as if their federal taxable incomes had been determined separately.

Section 12. Section **59-10-202** is repealed and reenacted to read:

59-10-202. Additions to and subtractions from federal taxable income of a resident or nonresident estate or trust.

(1) There shall be added to unadjusted income of a resident or nonresident estate or trust:

(a) the amount of any income tax imposed by this or any predecessor Utah individual income tax law and the amount of any income tax imposed by the laws of another state, the District of Columbia, or a possession of the United States, to the extent deducted from federal adjusted total income as defined in Section 62, Internal Revenue Code, in determining federal taxable income;

(b) a lump sum distribution allowable as a deduction under Section 402(d)(3), Internal Revenue Code, to the extent deductible under Section 62(a)(8), Internal Revenue Code, in determining federal adjusted gross income;

(c) except as provided in Subsection (3), for bonds, notes, and other evidences of indebtedness acquired on or after January 1, 2003, the interest from bonds, notes, and other evidences of indebtedness issued by one or more of the following entities:

(i) a state other than this state;

(ii) the District of Columbia;

(iii) a political subdivision of a state other than this state; or

(iv) an agency or instrumentality of an entity described in Subsections (1)(c)(i) through (iii);

(d) any portion of federal taxable income for a taxable year if that federal taxable income is derived from stock:

(i) in an S corporation; and

(ii) held by an electing small business trust;

(e) the amount withdrawn under Title 53B, Chapter 8a, Higher Education Savings Incentive Program, from the account of a resident or nonresident estate or trust that is an account owner as defined in Section 53B-8a-102, for the taxable year for which the amount is withdrawn, if that amount withdrawn from the account of the resident or nonresident estate or trust that is the account owner:

(i) is not expended for higher education costs as defined in Section 53B-8a-102; and

(ii) is subtracted by the resident or nonresident estate or trust:

(A) that is the account owner; and

(B) in accordance with Subsection (2)(h);

(f) any fiduciary adjustments required by Section 59-10-210.

(2) There shall be subtracted from unadjusted income of a resident or nonresident estate or trust:

(a) the interest or a dividend on obligations or securities of the United States and its possessions or of an authority, commission, or instrumentality of the United States, to the extent that interest or dividend is included in gross income for federal income tax purposes for the taxable year but exempt from state income taxes under the laws of the United States, but the amount subtracted under this Subsection (2)(a) shall be reduced by any interest on indebtedness incurred or continued to purchase or carry the obligations or securities described in this Subsection (2)(a), and by any expenses incurred in the production of interest or dividend income described in this Subsection (2)(a) to the extent that such expenses, including amortizable bond premiums, are deductible in determining federal taxable income;

(b) income of an irrevocable resident trust if:

(i) the income would not be treated as state taxable income derived from Utah sources under Section 59-10-204 if received by a nonresident trust;

(ii) the trust first became a resident trust on or after January 1, 2004;

(iii) no assets of the trust were held, at any time after January 1, 2003, in another resident irrevocable trust created by the same settlor or the spouse of the same settlor;

(iv) the trustee of the trust is a trust company as defined in Subsection 7-5-1(1)(d);

(v) the amount subtracted under this Subsection (2)(b) is reduced to the extent the settlor or any other person is treated as an owner of any portion of the trust under Subtitle A, Subchapter J, Subpart E of the Internal Revenue Code; and

(vi) the amount subtracted under this Subsection (2)(b) is reduced by any interest on indebtedness incurred or continued to purchase or carry the assets generating the income described in this Subsection (2)(b), and by any expenses incurred in the production of income described in this Subsection (2)(b), to the extent that those expenses, including amortizable bond premiums, are deductible in determining federal taxable income;

(c) if the conditions of Subsection (4)(a) are met, the amount of income of a resident or nonresident estate or trust derived from a deceased Ute tribal member:

(i) during a time period that the Ute tribal member resided on homesteaded land diminished from the Uintah and Ouray Reservation; and

(ii) from a source within the Uintah and Ouray Reservation;

(d)(i) the total amount of a resident or nonresident estate's or trust's short-term capital gain or long-term capital gain on a capital gain transaction:

(A) that occurs on or after January 1, 2003;

(B) if 70% or more of the gross proceeds of the capital gain transaction are expended:

(I) to purchase stock in a Utah small business corporation; and

(II) within a 12-month period after the day on which the capital gain transaction occurs; and

(C) if prior to the purchase of the qualifying stock described in Subsection (2)(d)(i)(B)(I), the resident or nonresident estate or trust did not have an ownership interest in the Utah small business corporation that issued the qualifying stock; and

(ii) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may make rules:

(A) defining the term "gross proceeds"; and

(B) for purposes of Subsection (2)(d)(i)(C), prescribing the circumstances under which a resident or nonresident estate or trust has an ownership interest in a Utah small business corporation;

(e) any amount:

(i) received by a resident or nonresident estate or trust;

(ii) that constitutes a refund of taxes imposed by:

(A) a state; or

(B) the District of Columbia; and

(iii) to the extent that amount is included in total income on that resident or nonresident estate's or trust's federal tax return for estates and trusts for that taxable year;

(f) the amount of a railroad retirement benefit:

(i) paid:

(A) in accordance with The Railroad Retirement Act of 1974, 45 U.S.C. Sec. 231 et seq.;

(B) to a resident or nonresident estate or trust derived from a deceased resident or nonresident individual; and

(C) for the taxable year; and

(ii) to the extent that railroad retirement benefit is included in total income on that resident or nonresident estate's or trust's federal tax return for estates and trusts;

(g) an amount:

(i) received by a resident or nonresident estate or trust if that amount is derived from a deceased enrolled member of an American Indian tribe; and

(ii) to the extent that the state is not authorized or permitted to impose a tax under this part on that amount in accordance with:

(A) federal law;

(B) a treaty; or

(C) a final decision issued by a court of competent jurisdiction;

(h) subject to Subsection (1)(e)(i), for taxable years beginning on or after January 1, 2007, the amount of a qualified investment as defined in Section 53B-8a-102 that:

(i) a resident or nonresident estate or trust that is an account owner as defined in Section 53B-8a-102 makes during the taxable year;

(ii) the resident or nonresident estate or trust described in Subsection (2)(h)(i) does not deduct on a federal tax return for estates and trusts; and

(iii) does not exceed the maximum amount of the qualified investment that may be subtracted from federal taxable income for a taxable year in accordance with Subsection 53B-8a-106(1)(e) and (f);

(i) the amount that a qualified nongrantor charitable lead trust deducts under Section 642(c), Internal Revenue Code, as a charitable contribution deduction, as allowed on the qualified nongrantor charitable lead trust's federal income tax return for estates and trusts for the taxable year; and

(j) any fiduciary adjustments required by Section 59-10-210.

(3) Notwithstanding Subsection (1)(c), interest from bonds, notes, and other evidences of indebtedness issued by an entity described in Subsections (1)(c)(i) through (iv) may not be added

to federal taxable income of a resident or nonresident estate or trust if, as annually determined by the commission:

(a) for an entity described in Subsection (1)(c)(i) or (ii), the entity and all of the political subdivisions, agencies, or instrumentalities of the entity do not impose a tax based on income on any part of the bonds, notes, and other evidences of indebtedness of this state; or

(b) for an entity described in Subsection (1)(c)(iii) or (iv), the following do not impose a tax based on income on any part of the bonds, notes, and other evidences of indebtedness of this state:

(i) the entity; or

(ii)(A) the state in which the entity is located; or

(B) the District of Columbia, if the entity is located within the District of Columbia.

(4)(a) A subtraction for an amount described in Subsection (2)(c) is allowed only if:

(i) the income is derived from a deceased Ute tribal member; and

(ii) the governor and the Ute tribe execute and maintain an agreement meeting the requirements of this Subsection (4).

(b) The agreement described in Subsection (4)(a):

(i) may not:

(A) authorize the state to impose a tax in addition to a tax imposed under this chapter;

(B) provide a subtraction under this section greater than or different from the subtraction described in Subsection (2)(c); or

(C) affect the power of the state to establish rates of taxation; and

(ii) shall:

(A) provide for the implementation of the subtraction described in Subsection (2)(c);

(B) be in writing;

(C) be signed by:

(I) the governor; and

(II) the chair of the Business Committee of the Ute tribe;

(D) be conditioned on obtaining any approval required by federal law; and

(E) state the effective date of the agreement.

(c)(i) The governor shall report to the commission by no later than February 1 of each year regarding whether or not an agreement meeting the requirements of this Subsection (4) is in effect.

(ii) If an agreement meeting the requirements of this Subsection (4) is terminated, the subtraction permitted under Subsection (2)(c) is not allowed for taxable years beginning on or after the January 1 following the termination of the agreement.

(d) For purposes of Subsection (2)(c) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) for determining whether income is derived from a source within the Uintah and Ouray Reservation; and

(ii) that are substantially similar to how adjusted gross income derived from Utah sources is determined under Section 59-10-117.

Section 13. Section **59-10-1002.2 Apportionment of tax credits.**

59-10-1002.2 Apportionment of tax credit.

(1) A nonresident individual or a part-year resident individual that claims a tax credit in accordance with Section 59-10-1024 may only claim an apportioned amount of the tax credit equal to:

(a) for a nonresident individual, the product of:

(i) the state income tax percentage for the nonresident individual; and

(ii) the amount of the tax credit that the nonresident individual would have been allowed to claim but for the apportionment requirements of this section; or

(b) for a part-year resident individual, the product of:

(i) the state income tax percentage for the part-year resident individual; and

(ii) the amount of the tax credit that the part-year resident individual would have been allowed to claim but for the apportionment requirements of this section.

(2) A nonresident estate or trust that claims a tax credit in accordance with Section 59-10-1024 may only claim an apportioned amount of the tax credit equal to the product of:

(a) the state income tax percentage for the nonresident estate or trust; and

(b) the amount of the tax credit that the nonresident estate or trust would have been allowed to claim but for the apportionment requirements of this section.

Section 14. Section **59-10-1402** is repealed and reenacted to read:

59-10-1402. Definitions.

As used in this part:

(1) "Addition, subtraction, or adjustment" means:

(a) for a pass-through entity taxpayer that is classified as a C corporation for federal income tax purposes, under Chapter 7, Corporate Franchise and Income Taxes:

(i) an addition to unadjusted income described in Section 59-7-105; or

(ii) a subtraction from unadjusted income described in Section 59-7-106;

(b) for a pass-through entity taxpayer that is classified as an individual, partnership, or S corporation for federal income tax purposes:

(i) an addition to or subtraction from federal taxable income described in Section 59-10-114; or

(ii) an adjustment to federal taxable income described in Section 59-10-115; or

(c) for a pass-through entity taxpayer that is classified as an estate or a trust for federal income tax purposes:

(i) an addition to or subtraction from unadjusted income described in Section 59-10-202; or

(ii) an adjustment to unadjusted income described in Section 59-10-209.1.

(2) "Business income" means income arising from transactions and activity in the regular course of a pass-through entity's trade or business and includes income from tangible and intangible property if the acquisition, management, and disposition of the property constitutes integral parts of the pass-through entity's regular trade or business operations.

(3) "C corporation" is as defined in Section 1361, Internal Revenue Code.

(4) "Commercial domicile" means the principal place from which the trade or business of a business entity is directed or managed.

(5) "Derived from or connected with Utah sources" means:

(a) if a pass-through entity taxpayer is classified as a C corporation for federal income-tax purposes, derived from or connected with Utah sources in accordance with Chapter 7, Part 3, Allocation and Apportionment of Income - Utah UDITPA Provisions; or

(b) if a pass-through entity or pass-through entity taxpayer is classified as an estate, individual, partnership, S corporation, or a trust for federal income tax purposes, derived from or connected with Utah sources in accordance with Sections 59-10-117 and 59-10-118.

(6) "Nonbusiness income" means all income of a pass-through entity other than business income.

(7) "Nonresident business entity" means a business entity that does not have its commercial domicile in this state.

(8) "Nonresident pass-through entity taxpayer" means a pass-through entity taxpayer that is a:

(a) nonresident individual; or

(b) nonresident business entity.

(9)(a) "Pass-through entity" means a business entity that is:

(i) the following if classified as a partnership for federal income tax purposes:

(A) a general partnership;

(B) a limited liability company;

(C) a limited liability partnership; or

(D) a limited partnership; [or]

(ii) an S corporation; or

(iii) a business entity similar to Subsection (9)(a)(i) or (ii):

(A) with respect to which the business entity's income [or losses are], gain, loss, deduction, or credit is divided among and passed through to [taxpayers] one or more pass-through entity taxpayers; and

(B) as defined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) "Pass-through entity" does not include [a trust] an estate or trust that is classified as an estate or trust for federal income tax purposes.

(10) "Pass-through entity taxpayer " means a resident or nonresident individual, a resident or nonresident business entity, or a resident or nonresident estate or trust:

(a) that is:

(i) for a general partnership, a partner;

(ii) for a limited liability company, a member;

(iii) for a limited liability partnership, a partner;

(iv) for a limited partnership, a partner; [or]

(v) for an S corporation, a shareholder; or

(vi) for a business entity described in Subsection [(2)(a)(v)] (9)(a)(iii), a member, partner, shareholder, or other title designated by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act[.]; and

(b) to which the income, gain, loss, deduction, or credit of a pass-through entity is passed through.

(11) "Resident business entity" means a business entity that is not a nonresident business entity.

(12) "Resident pass-through entity taxpayer" means a pass-through entity taxpayer that is a:

(a) resident individual; or

(b) resident business entity.

(13) "Return" means a return that a pass-through entity taxpayer files:

(a) for a pass-through entity taxpayer that is classified as a C corporation for federal income tax purposes, under Chapter 7, Corporate Franchise and Income Taxes; or

(b) for a pass-through entity taxpayer that is classified as an estate, individual, partnership, S corporation, or a trust for federal income tax purposes, under this chapter.

(14) "S corporation" is as defined in Section 1361, Internal Revenue Code.

(15) "Share of income, gain, loss, deduction, or credit of a pass-through entity" means:

(a) for a pass-through entity except for a pass-through entity that is an S corporation:

(i) for a resident pass-through entity taxpayer, the resident pass-through entity taxpayer's distributive share of income, gain, loss, deduction, or credit of the pass-through entity as determined under Section 704 et seq., Internal Revenue Code; and

(ii) for a nonresident pass-through entity taxpayer, the nonresident pass-through entity taxpayer's distributive share of income, gain, loss, deduction, or credit of the pass-through entity:

(A) as determined under Section 704 et seq., Internal Revenue Code; and

(B) derived from or connected with Utah sources; or

(b) for an S corporation:

(i) for a resident pass-through entity taxpayer, the resident pass-through entity taxpayer's pro rata share of income, gain, loss, deduction, or credit of the S corporation, as determined under Sec. 1366 et seq., Internal Revenue Code; or

(ii) for a nonresident pass-through entity taxpayer, the nonresident pass-through entity taxpayer's pro rata share of income, gain, loss, deduction, or credit of the S corporation:

(A) as determined under Section 1366 et seq., Internal Revenue Code; and

(B) derived from or connected with Utah sources.

Section 15. **Repealer.**

This bill repeals:

Section **59-10-1017, Utah Educational Savings Plan tax credit.**

Section **59-10-1018, Definitions – Nonrefundable taxpayer tax credits.**

Section **59-10-1019, Definitions – Nonrefundable retirement tax credits.**

Section **59-10-1020, Nonrefundable estate or trust tax credit.**

Section **59-10-1021, Nonrefundable medical care savings account tax credit.**

Section **59-10-1022, Nonrefundable tax credit for capital gain transactions.**

Section **59-10-1023, Nonrefundable tax credit for amounts paid under a health benefit plan.**

Section 16. **Severability Clause.**

If any provision of this bill, or the application of any provision to any person or circumstance is held invalid, the remainder of the bill shall be given effect without the invalid provision or application.

Section 17. **Retrospective Operation.**

This bill has retrospective operation for taxable years beginning on or after January 1, 2010.

I, Gregory S. Bell, Lieutenant Governor of the State of Utah, hereby certify that the initiative entitled "SINGLE RATE INCOME TAX REPEAL AND GRADUATED TAX RATES REVISION" contained in this petition is a full, true, and correct copy of that initiative as proposed by the sponsors for referral to the People of the State of Utah for their approval as law or rejection.

Dated this _______ day of _____________________, 2009.

____

Gregory S. Bell
Lieutenant Governor